



**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

[Docket Nos. 090206140-91081-03, 120405260-4258-02, 200706-0181, and 200127-0032]

**RTID 0648-XC518**

**Revised Reporting Requirements Due to Catastrophic Conditions for Federal Seafood Dealers, Individual Fishing Quota Dealers, and Charter Vessels and Headboats in Portions of Florida**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; determination of catastrophic conditions.

**SUMMARY:** In accordance with the regulations implementing the individual fishing quota (IFQ), Federal dealer reporting, and Federal charter vessel and headboat (for-hire vessel) reporting programs specific to the reef fish fishery in the Gulf of Mexico (Gulf) and the coastal migratory pelagic (CMP) fisheries in the Gulf, the Regional Administrator (RA), Southeast Region, NMFS, has determined that Hurricane Ian has caused catastrophic conditions that still exist in the Florida counties of Charlotte,

Collier, and Lee. This temporary rule authorizes any dealer in the affected areas described in this temporary rule who does not have access to electronic reporting to delay reporting of trip tickets to NMFS and authorizes IFQ participants within the affected area to use paper-based forms, if necessary, for basic required administrative functions, e.g., landing transactions. This rule also authorizes any Federal for-hire owner or operator in the affected areas described in this temporary rule who does not have access to electronic reporting to delay reporting of logbook records to NMFS. This temporary rule is intended to facilitate continuation of IFQ, dealer, and Federal for-hire reporting operations during the period of catastrophic conditions.

**DATES:** The RA is authorizing Federal dealers, IFQ participants, and Federal for-hire operators in the affected areas to use revised reporting methods from November 8, 2022, through *[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

**FOR FURTHER INFORMATION CONTACT:** IFQ Customer Service, telephone: 866-425-7627, email: *nmfs.ser.catchshare@noaa.gov*. For Federal dealer reporting, Fisheries Monitoring Branch, telephone: 305-361-4581. For Federal for-hire reporting, Southeast For-Hire Integrated Electronic Reporting

program, telephone: 833-707-1632, email:

*ser.electronicreporting@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf is managed under the Fishery Management Plan (FMP) for Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP), prepared by the Gulf of Mexico Fishery Management Council (Gulf Council). The CMP fishery is managed under the FMP for CMP Resources in the Gulf of Mexico and Atlantic Region, prepared by the Gulf Council and South Atlantic Fishery Management Council (South Atlantic Council). These FMPs are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Amendment 26 to the Reef Fish FMP established an IFQ program for the commercial red snapper component of the Gulf reef fish fishery (71 FR 67447, November 22, 2006). Amendment 29 to the Reef Fish FMP established an IFQ program for the commercial grouper and tilefish components of the Gulf reef fish fishery (74 FR 44732, August 31, 2009). Regulations implementing these IFQ programs (50 CFR 622.21 and 622.22) require that IFQ participants have access to a computer and the Internet and that they conduct administrative functions associated with the IFQ

program, e.g., landing transactions, online. However, these regulations also specify that during catastrophic conditions, as determined by the RA, the RA may authorize IFQ participants to use paper-based forms to complete administrative functions for the duration of the catastrophic conditions. The RA must determine that catastrophic conditions exist, specify the duration of the catastrophic conditions, and specify which participants or geographic areas are deemed affected.

The Generic Dealer Amendment established Federal dealer reporting requirements for federally permitted dealers in the Gulf and South Atlantic (79 FR 19490, April 9, 2014). The Gulf For-Hire Reporting Amendment implemented reporting requirements for Gulf reef fish and CMP owners and operators of Gulf for-hire vessels (85 FR 44005, July 21, 2020). Regulations implementing these Gulf dealer reporting requirements (50 CFR 622.5) and for-hire vessel reporting requirements (50 CFR 622.26 and 622.374) state that dealers must submit electronic reports and that Gulf reef fish and CMP vessels with the applicable charter vessel/headboat permit must submit electronic fishing reports of all fish harvested and discarded. However, these regulations also specify that during catastrophic conditions, as determined by the RA, the RA may waive

or modify the reporting time requirements for dealers and for-hire vessels for the duration of the catastrophic conditions.

Hurricane Ian made landfall in the U.S. near Cayo Costa, Florida, in the Gulf as a Category 4 hurricane on September 28, 2022, then moved across the Florida peninsula into the South Atlantic and made another U.S. landfall as a Category 1 hurricane near Georgetown, South Carolina, on September 30, 2022. Strong winds and flooding from this hurricane impacted communities throughout coastal Florida and coastal South Carolina. This resulted in power outages and damage to homes, businesses, and infrastructure. As a result, the RA has determined that catastrophic conditions continue to exist in the Gulf for the Florida counties of Charlotte, Collier, and Lee.

The RA previously authorized Federal dealers and Federal for-hire operators in these affected areas to delay reporting of trip tickets and for-hire logbooks to NMFS, and IFQ participants in this affected area to use paper-based forms, from October 6, 2022, through November 7, 2022 (87 FR 61540, October 12, 2022). As stated in that temporary rule, NMFS continues to monitor the conditions in these areas.

NMFS has received numerous reports of continued damage to the infrastructure in the Florida counties

of Charlotte, Collier, and Lee, on the Gulf coast of Florida, such as power outages and interruption of water service. Therefore, to provide Federal dealers and Federal for-hire operators in the affected area the continued flexibility to delay reporting of trip tickets and for-hire logbooks to NMFS, and allow IFQ participants in the affected area to use paper-based forms, NMFS extends the current catastrophic conditions determination through *[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*. This determination remains in effect for Charlotte, Collier, and Lee counties in Florida.

Through this temporary rule, the RA is authorizing Federal dealers and Federal for-hire operators in these affected areas to delay reporting of trip tickets and for-hire logbooks to NMFS, and authorizing IFQ participants in this affected area to use paper-based forms, from November 8, 2022, through *[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*. NMFS will provide additional notification to affected dealers via NOAA Weather Radio, Fishery Bulletins, and other appropriate means. NMFS will continue to monitor and re-evaluate the areas and duration of the catastrophic conditions, as necessary.

Dealers may delay electronic reporting of trip

tickets to NMFS during catastrophic conditions.

Dealers are to report all landings to NMFS as soon as possible. Assistance for Federal dealers in affected area is available from the NMFS Fisheries Monitoring Branch at 1-305-361-4581. NMFS previously provided IFQ dealers with the necessary paper forms and instructions for submission in the event of catastrophic conditions. Paper forms are also available from the RA upon request. The electronic systems for submitting information to NMFS will continue to be available to all dealers, and dealers in the affected area are encouraged to continue using these systems, if accessible.

Federal for-hire operators may delay electronic reporting of logbooks to NMFS during catastrophic conditions. Federal for-hire operators are to report all landings to NMFS as soon as possible. Assistance for Federal for-hire operators in affected area is available from the NMFS Southeast For-Hire Integrated Electronic Reporting Program at 1-833-707-1632, Monday through Friday, between 8 a.m. and 4:30 p.m., Eastern Time. The electronic systems for submitting information to NMFS will continue to be available to all Federal for-hire operators, and for-hire operators are encouraged to continue using the these systems, if accessible.

The administrative program functions available to IFQ participants in the area affected by catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQ shares or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via the NMFS Catch Share Support line, 1-866-425-7627 Monday through Friday, between 8 a.m. and 4:30 p.m., Eastern Time.

#### **Classification**

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is consistent with the regulations in 50 CFR 622.5(c)(1)(iii), 622.21(a)(3)(iii), and 622.22(a)(3)(iii), which were issued pursuant to section 304(b) of the Magnuson-Stevens Act, and are exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment are unnecessary and contrary to the public interest. Such procedures are unnecessary because the final rules implementing the Gulf IFQ programs, the Gulf and South Atlantic Federal dealer reporting requirements, and the Gulf for-hire vessel reporting requirements



have already been subject to notice and public comment. These rules authorize the RA to determine when catastrophic conditions exist, and which participants or geographic areas are deemed affected by catastrophic conditions. The final rules also authorize the RA to provide timely notice to affected participants via publication of notification in the **Federal Register**, NOAA Weather Radio, Fishery Bulletins, and other appropriate means. All that remains is to notify the public that catastrophic conditions exist, that IFQ participants may use paper forms, and that Federal dealers and Gulf for-hire permit holders may submit delayed reports. Such procedures are also contrary to the public interest because of the need to immediately implement this action because affected dealers continue to receive these species in the affected area and need a means of completing their landing transactions. With the power outages and damages to infrastructure that have occurred in the affected area due to Hurricane Ian, numerous businesses are unable to complete landings transactions, fishing reports, and dealer reports electronically. In order to continue with their businesses, IFQ participants need to be aware they can report using the paper forms, and Federal dealers and Gulf for-permit holders need to be aware that they can

delay reporting.

For the aforementioned reasons, there is good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d) (3).

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: November 2, 2022.

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Kelly Denit,

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